

Adopted

Rejected

## MINORITY COMMITTEE REPORT

### MR. SPEAKER:

*A minority of your Committee on Labor and Employment, which met on April 7, 2009, to consider Senate Bill 370, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1           Page 7, line 4, delete "Notwithstanding a policy adopted under
- 2           subsection (a), the" and insert "**A member or beneficiary who does**
- 3           **not wish to have payments to the person deposited by direct deposit**
- 4           **or another method approved by the board under subsection (a)**
- 5           **may request the board or a designee of the board to grant a waiver**
- 6           **of the requirement of direct deposit or another method approved**
- 7           **by the board. The member or beneficiary must:**
- 8                 (1) state the reason to the board for requesting the waiver;
- 9                 and
- 10                (2) sign a waiver form.
- 11           (c) The board or a designee of the board shall grant the
- 12           member's or beneficiary's request for a waiver, approval of which
- 13           shall not be unreasonably denied, if any of the following apply:
- 14                (1) The member or beneficiary currently does not have a

1           savings or checking account.

2           **(2) The member or beneficiary is unable to establish a savings**  
 3           **or checking account within the geographic area of the home**  
 4           **of the member or beneficiary without payment of a service**  
 5           **fee. In support of this reason, the member or beneficiary must**  
 6           **submit a written statement of the inability to establish the**  
 7           **account without the payment of a fee with the waiver request.**

8           **(3) The home of the member or beneficiary is too remote to**  
 9           **have access to a financial institution where direct deposit or**  
 10           **another method approved by the board may be made.**

11           **(4) The financial institution of the member or beneficiary is**  
 12           **unable to:**

13               **(A) accept direct deposit or another method approved by**  
 14               **the board; or**

15               **(B) process electronic withdrawal.**

16           **The member or beneficiary must submit with the waiver a**  
 17           **written statement from the financial institution of the member**  
 18           **or beneficiary that the financial institution is unable to accept**  
 19           **direct deposit or another method approved by the board or**  
 20           **process electronic withdrawal.**

21           **(5) The board determines that the facts of the particular case**  
 22           **warrant a waiver of the requirement of direct deposit or**  
 23           **another method approved by the board.**

24           **(d) The policy of the board shall provide that a member or**  
 25           **beneficiary in pay status as of July 1, 2009, receiving monthly**  
 26           **benefits in a manner other than direct deposit or another method**  
 27           **approved by the board shall not have the monthly benefits stopped**  
 28           **for receiving monthly benefits in a manner other than direct**  
 29           **deposit or another method approved by the board."**

30           Page 7, delete lines 5 through 9.

31           Page 8, line 26, delete "This subsection applies to a member of the  
 32           Indiana state".

33           Page 8, line 27, delete "teachers' retirement fund."

34           Page 8, line 42, delete "This subsection applies to a member of the  
 35           Indiana state".

36           Page 9, line 1, delete "teachers' retirement fund."

37           Page 9, line 13, delete "of the Indiana".

38           Page 9, line 14, delete "state teachers' retirement fund".

- 1 Page 9, line 34, delete "of the".
- 2 Page 9, line 35, delete "Indiana state teachers' retirement fund".
- 3 Page 9, delete lines 37 through 42.
- 4 Page 10, delete lines 1 through 12.
- 5 Page 10, line 13, reset in roman "(d)".
- 6 Page 10, line 13, delete "(e)".
- 7 Page 12, delete lines 22 through 42, begin a new paragraph and
- 8 insert the following:
- 9 "SECTION 10. IC 5-10.2-4-8, AS AMENDED BY P.L.130-2008,
- 10 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 11 JULY 1, 2009]: Sec. 8. (a) **Subject to subsection (f)**, if a member who
- 12 is receiving retirement benefits becomes reemployed in a position
- 13 covered by this article more than thirty (30) days after the member's
- 14 retirement, the member's retirement benefit payments continue. Except
- 15 for a member of the Indiana state teachers' retirement fund who is
- 16 reemployed more than thirty (30) days after the member's retirement in
- 17 a position covered by the Indiana state teachers' retirement fund, the
- 18 member shall begin making contributions as required in IC 5-10.2-3-2,
- 19 and the member's employer shall make contributions throughout the
- 20 member's period of reemployment.
- 21 (b) If a member who is receiving retirement benefits is reemployed
- 22 in a position covered by this article not more than thirty (30) days after
- 23 the member's retirement, the member's retirement benefits shall stop,
- 24 the member shall begin making contributions as required by
- 25 IC 5-10.2-3-2, and employer contributions shall be made throughout
- 26 the period of reemployment.
- 27 (c) This subsection does not apply to a member of the Indiana state
- 28 teachers' retirement fund who is reemployed more than thirty (30) days
- 29 after the member's retirement in a position covered by the Indiana state
- 30 teachers' retirement fund. If a retired member is reemployed in a
- 31 position covered by this article, section 10 of this chapter applies to the
- 32 member upon the member's retirement from reemployment.
- 33 (d) **Subject to subsection (f)**, the following apply to a member of
- 34 the Indiana state teachers' retirement fund who is reemployed more
- 35 than thirty (30) days after the member's retirement in a position covered
- 36 by the Indiana state teachers' retirement fund:
- 37 (1) The member's retirement benefit payments continue during the
- 38 member's period of reemployment without regard to the amount

- 1 of the member's earnings from the covered position.
- 2 (2) The member may not make contributions under IC 5-10.2-3-2,
- 3 **IC 5-10.3-7-9**, or IC 5-10.4-4-11 during the member's period of
- 4 reemployment.
- 5 (3) The member's employer may not make contributions under
- 6 IC 5-10.2-2-11, **IC 5-10.3-7-9**, or IC 5-10.4-4-11 for or on behalf
- 7 of the member during the member's period of reemployment.
- 8 (4) The member does not earn creditable service under
- 9 IC 5-10.2-3-1 for the member's period of reemployment.
- 10 (5) The member is not entitled to an additional benefit under
- 11 sections 9 and 10 of this chapter for the member's period of
- 12 reemployment.
- 13 (e) The thirty (30) day period provided for in this section may be
- 14 implemented unless the board of trustees of the fund receives a
- 15 determination from the Internal Revenue Service prohibiting the
- 16 implementation.
- 17 **(f) After July 31, 2009, if, on or before the date the member files**
- 18 **an application for retirement benefits under this article, a member**
- 19 **has a formal or informal agreement with an employer covered by**
- 20 **this article to become reemployed in a position covered by this**
- 21 **article after the member's retirement, regardless of the time frame,**
- 22 **the member's application for retirement benefits is void, and the**
- 23 **following apply to the member's continued employment:**
- 24 **(1) If a member received a retirement benefit:**
- 25 **(A) the member's retirement benefit shall stop; and**
- 26 **(B) the member shall repay the amount of the retirement**
- 27 **benefit received.**
- 28 **(2) The member shall make contributions as required by**
- 29 **IC 5-10.2-3-2.**
- 30 **(3) Employer contributions shall be made throughout the**
- 31 **period of employment.**
- 32 **(4) When the member's period of continued employment**
- 33 **terminates, the member may again file an application for**
- 34 **retirement benefits under this chapter."**
- 35 Delete page 13.
- 36 Page 14, delete line 1.
- 37 Page 23, between lines 9 and 10, begin a new paragraph and insert:
- 38 "SECTION 25. IC 22-4-15-6.1 IS AMENDED TO READ AS

1       FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6.1. (a)  
 2       Notwithstanding any other provisions of this article, all of the  
 3       individual's wage credits established prior to the day upon which the  
 4       individual was discharged for gross misconduct in connection with  
 5       work are canceled.

6       **(b) As used in this section, "gross misconduct" includes any of the**  
 7       **following:**

8               (1) A felony or a Class A misdemeanor committed in connection  
 9               with work. ~~but only if the felony or misdemeanor is admitted by~~  
 10              ~~the individual or has resulted in a conviction.~~

11              (2) **Working under the influence of alcohol or a controlled**  
 12              **substance.**

13              (3) **Willful negligence resulting in damage to the employer's**  
 14              **property.**

15              (4) **A willful violation of safety rules.**

16              (5) **Assault of or battery on another individual while on the**  
 17              **employer's property or during working hours.**

18              (6) **Theft or embezzlement.**

19              (7) **Fraud.**

20              (8) **Any activity by an individual that intentionally harms the**  
 21              **business interests of the individual's employer."**

22       Page 23, line 11, delete "IC 5-10.2-4-9; IC 5-10.2-4-10;".

23       Re-number all SECTIONS consecutively.

(Reference is to SB 370 as printed February 20, 2009.)

**and when so amended that said bill do pass.**

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Representative Leonard